

By: Thompson

H.B. No. 3538

A BILL TO BE ENTITLED

AN ACT

relating to the release of certain inmates on medically recommended intensive supervision or on super-intensive supervision parole.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Subchapter E, Chapter 508, Government Code, is amended by adding Sections 508.1451 and 508.1459 to read as follows:

Sec. 508.1451. MANDATORY RELEASE OF CERTAIN ELDERLY INMATES. (a) For purposes of this section, "elderly inmate" means an inmate who is 55 years of age or older.

(b)(1) Not later than an elderly inmate's initial parole eligibility date computed under Section 508.145, a parole panel shall order the release of the inmate on super-intensive supervision parole under Section 508.317.

(2) This subsection does not apply to an elderly inmate who is:

(A) serving a sentence for an offense described by Section 508.145(a);

(B) serving a sentence for an offense described by Section 3g(a), Article 42.12, Code of Criminal Procedure;

(C) serving a sentence for an offense under Section 21.12, Penal Code; or

(D) described by Subsection (c).

(c) A parole panel may not release an otherwise eligible

1 elderly inmate under this section if the inmate is the subject of
2 major disciplinary action within the 60-day period preceding the
3 inmate's scheduled release date.

4 (d) The board shall adopt a policy establishing the date on
5 which a parole panel may reconsider for release an elderly inmate
6 who has previously been denied release under Subsection (c). The
7 policy must require the parole panel to at least annually
8 reconsider the elderly inmate for release as soon as practicable
9 after each anniversary of the date of denial.

10 Sec. 508.1459. MANDATORY RELEASE OF CERTAIN INMATES ON
11 MEDICALLY RECOMMENDED INTENSIVE SUPERVISION. (a) A parole panel
12 shall release on medically recommended intensive supervision any
13 inmate other than an inmate who is serving a sentence of death or
14 life without parole, regardless of the inmate's initial parole
15 eligibility date computed under Section 508.145, if on the basis of
16 a medical examination approved by at least two physicians the Texas
17 Correctional Office on Offenders with Medical or Mental Impairments
18 identifies the inmate as:

- 19 (1) being terminally ill;
20 (2) having a condition requiring long-term care;
21 (3) being in a persistent vegetative state; or
22 (4) having an organic brain syndrome with significant
23 to total mobility impairment.

24 (b) Before releasing an inmate under Subsection (a), the
25 Texas Correctional Office on Offenders with Medical or Mental
26 Impairments, in cooperation with the department, shall prepare for
27 the inmate a medically recommended supervision plan that requires

1 the inmate to submit to electronic monitoring, places the inmate on
2 super-intensive supervision, or otherwise ensures appropriate
3 supervision of the inmate.

4 (c) A parole panel releasing an inmate under Subsection (a)
5 shall require as a condition of release that the releasee remain
6 under the care of a physician and in a medically suitable placement.
7 At least once each calendar quarter, the Texas Correctional Office
8 on Offenders with Medical or Mental Impairments shall report to the
9 parole panel on the releasee's medical and placement status. On the
10 basis of the report, the parole panel may modify conditions of
11 release and impose any condition on the releasee that the panel
12 could impose on a releasee released under Section 508.145.

13 SECTION 2. The heading to Section 508.146, Government Code,
14 is amended to read as follows:

15 Sec. 508.146. DISCRETIONARY RELEASE OF CERTAIN INMATES ON
16 MEDICALLY RECOMMENDED INTENSIVE SUPERVISION.

17 SECTION 3. Sections 508.146(a), (b), and (e), Government
18 Code, are amended to read as follows:

19 (a) An inmate other than an inmate who is serving a sentence
20 of death or life without parole may be released on medically
21 recommended intensive supervision on a date designated by a parole
22 panel described by Subsection (e) [~~except that an inmate with an~~
23 ~~instant offense that is an offense described in Section 3g, Article~~
24 ~~42.12, Code of Criminal Procedure, or an inmate who has a reportable~~
25 ~~conviction or adjudication under Chapter 62, Code of Criminal~~
26 ~~Procedure, may only be considered if a medical condition of~~
27 ~~terminal illness or long-term care has been diagnosed by a~~

1 ~~physician,~~] if:

2 (1) the Texas Correctional Office on Offenders with
3 Medical or Mental Impairments, in cooperation with the Correctional
4 Managed Health Care Committee, identifies the inmate as ~~[being]~~:

5 (A) being 55 years of age or older;

6 (B) having a physical disability; or

7 (C) being a person with a mental illness or

8 mental retardation ~~[elderly, physically disabled, mentally ill,~~

9 ~~terminally ill, or mentally retarded or having a condition~~

10 ~~requiring long-term care, if the inmate is an inmate with an instant~~

11 ~~offense that is described in Section 3g, Article 42.12, Code of~~

12 ~~Criminal Procedure; or~~

13 ~~[(B) in a persistent vegetative state or being a~~

14 ~~person with an organic brain syndrome with significant to total~~

15 ~~mobility impairment, if the inmate is an inmate who has a reportable~~

16 ~~conviction or adjudication under Chapter 62, Code of Criminal~~

17 ~~Procedure];~~

18 (2) the suitability of the inmate for release on

19 medically recommended intensive supervision, based on a medical

20 examination of the inmate, has been approved by a panel of at least

21 two physicians;

22 (3) the parole panel determines that, based on the

23 inmate's condition and a medical evaluation, the inmate does not

24 constitute a threat to public safety; and

25 (4) [(-3-)] the Texas Correctional Office on Offenders

26 with Medical or Mental Impairments, in cooperation with the

27 department ~~[pardons and paroles division]~~, has prepared for the

1 inmate a medically recommended intensive supervision plan that
2 requires the inmate to submit to electronic monitoring, places the
3 inmate on super-intensive supervision, or otherwise ensures
4 appropriate supervision of the inmate.

5 (b) An inmate may be released on medically recommended
6 intensive supervision only if the inmate's medically recommended
7 intensive supervision plan under Subsection (a)(4) [~~(a)(3)~~] is
8 approved by the Texas Correctional Office on Offenders with Medical
9 or Mental Impairments.

10 (e) Only parole panels composed of the presiding officer of
11 the board and two members appointed to the panel by the presiding
12 officer may make determinations regarding the release of inmates on
13 medically recommended intensive supervision under Subsection (a)
14 or of inmates released pending deportation. If the Texas Council on
15 Offenders with Mental Impairments identifies an inmate as a
16 candidate for release under the guidelines established by
17 Subsection (a) [~~(a)(1)~~], the council shall present to a parole
18 panel described by this subsection relevant information concerning
19 the inmate and the inmate's potential for release under this
20 section.

21 SECTION 4. Not later than January 1, 2012, the Texas
22 Department of Criminal Justice shall release on supervision:

23 (1) any elderly inmate eligible for release under
24 Section 508.1451, Government Code, as added by this Act, with
25 respect to whom a parole panel has not denied release on parole
26 under that section; and

27 (2) any inmate identified for release under Section

1 508.1459, Government Code, as added by this Act.

2 SECTION 5. Section 508.146, Government Code, as amended by
3 this Act, applies to the release of an inmate under that section on
4 or after the effective date of this Act, regardless of when the
5 offense for which the inmate is serving a sentence was committed.

6 SECTION 6. This Act takes effect September 1, 2011.